

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GATEWAY CITY CHURCH, et al.,
Plaintiffs,
v.
GAVIN NEWSOM, et al.,
Defendants.

Case No. [5:20-cv-08241-EJD](#)

**ORDER GRANTING MOTION FOR
LEAVE TO FILE A MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 76

On February 8, 2021, the Court granted Plaintiffs' Emergency Motion for relief pending appeal in light of the Supreme Court's decision in *South Bay United Pentecostal Church, et al. v. Newsom*, 592 U.S. ____ (Feb. 5, 2021) No. 20A136 (20-746) (*South Bay II*). Dkt. No. 75 ("February 8 Order"). On February 9, 2021, Defendants County of Santa Clara and County Health Officer Dr. Sara H. Cody (collectively "County") filed a Motion for Leave to File Motion for Reconsideration of the Court's February 8, 2021 Order. Dkt. No. 76 ("Motion for Leave"). Later that day, Plaintiffs filed a Preliminary Opposition to the County's Motion for Leave. Dkt. No. 77 ("Preliminary Opposition").

The County argues that this Court erred in relying on the Supreme Court decision in *South Bay II*, which addressed the State's restrictions, to enjoin the County's restrictions on gatherings because the County's restrictions remain neutral and generally applicable. In their Preliminary Opposition, Plaintiffs argue that a motion for reconsideration is procedurally improper under Civil Local Rule 7-9(b). Under that rule, a motion for reconsideration is appropriate where "a material difference in fact or law exists from that which was presented to the Court before entry of the

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interlocutory order for which reconsideration is sought.” Civil L.R. 7-9(b). Although *South Bay II* was published before this Court’s February 8 Order, neither party had the opportunity to present arguments related to the new precedent. Having considered the Motion for Leave and Preliminary Opposition, the Court finds that further argument is warranted regarding how *South Bay II* affects Plaintiffs’ request to enjoin the County restrictions.

The Court, therefore, orders as follows:

1. The County’s Motion for Leave is GRANTED.
2. Enforcement of the February 8 Order is STAYED until the County’s motion for reconsideration is resolved.
3. The Court deems the County’s Memorandum of Points and Authorities in Support of the Motion for Leave as the County’s Memorandum of Points as Authorities in Support of Reconsideration. Plaintiffs’ response to the motion for reconsideration shall be due no later than March 8, 2021. The County’s reply, if any, shall be due no later than March 12, 2021. A hearing on the motion is tentatively set for March 19, 2021 at 9:00 a.m. via Zoom videoconference.

IT IS SO ORDERED.

Dated: February 10, 2021



EDWARD J. DAVILA
United States District Judge

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